

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018-AI56

Fiscal Year 2002 Private Stewardship Grants Program; Request for Grant Proposals and Final Policy and Implementation Guidelines

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of request for proposals; announcement of final policy and implementation guidelines.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are soliciting project proposals for Federal assistance under the Private Stewardship Grants Program (PSGP). This document describes how you can apply for funding under the PSGP and how we will determine which project proposals will be funded. Congress appropriated \$10 million from the Land and Water Conservation Fund in Fiscal Year 2002 for the Service to establish the PSGP. The PSGP provides grants and other assistance on a competitive basis to individuals and groups engaged in private, voluntary conservation efforts that benefit species listed or proposed as endangered or threatened under the Endangered Species Act of 1973, as amended (Act), candidate species, or other at-risk species on private lands within the United States.

DATES: Project proposals must be received by the appropriate Regional Office (see Table 2 in

SUPPLEMENTARY INFORMATION) no later than December 2, 2002.

ADDRESSES: For additional information—contact the Service’s Regional Office that has the responsibility for the State or Territory in which the proposed project would occur. The contact information for each Regional Office is listed in Table 2 under SUPPLEMENTARY INFORMATION below. Information on the PSGP is also available from the Branch of Recovery and State Grants, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203 or electronically at http://endangered.fws.gov/grants/private_stewardship.html or email: Privatestewardship@fws.gov.

To submit a project proposal—send your project proposals to the Service’s Regional Office that has the responsibility for the State or Territory in which the proposed project would occur (see Table 2 under SUPPLEMENTAL INFORMATION). You must submit one original and two copies of the complete proposal. We will not accept facsimile project proposals.

FOR FURTHER INFORMATION CONTACT: The Program Contact in the appropriate Regional Office identified in Table 2 under SUPPLEMENTARY INFORMATION or Martin Miller, Chief, Branch of Recovery and State Grants (703/358-2061).

SUPPLEMENTARY INFORMATION:

Background

The majority of endangered and threatened species depend, at least in part, upon privately owned lands for their survival. The help of landowners is essential for the conservation of these and other imperiled species. Fortunately, many private landowners want to help. Often, however, the costs associated with implementing conservation actions are greater than a landowner could undertake without financial assistance. The President’s Budget for Fiscal Year 2002 requested funding to address this need and Congress responded by appropriating \$10 million from the Land and Water Conservation Fund for the Service to establish the PSGP. The PSGP provides grants or other Federal assistance on a competitive basis to individuals and groups engaged in private, voluntary

conservation efforts that benefit species listed or proposed as endangered or threatened under the Act, candidate species, or other at-risk species on private lands within the United States.

We are soliciting project proposals for Federal assistance under the PSGP. This document describes how you can apply for funding under the PSGP and how we will determine which project proposals will be funded. On June 7, 2002, we published in the Federal Register (67 FR 39419) our plan to implement the PSGP and solicited comments. As a result of the comments received, a number of changes have been made to the implementation guidelines. The following sections explain the PSGP. The first, Final Program Implementation Guidelines, includes the project eligibility criteria, the project selection process, and the instructions on how to apply for PSGP grants. The second, Summary of Comments and Recommendations, responds to the comments we received on the proposed implementation guidelines. The third, Required Determinations, addresses the regulatory requirements associated with issuing the final PSGP implementation guidelines.

I. Final Program Implementation Guidelines

As a result of comments received, we have made a number of changes in the implementation guidelines. Therefore, we encourage you to read the entire document before preparing a project proposal. We have revised the scoring system used to evaluate projects, provided substantially more guidance on submitting a project proposal, and clarified the eligibility criteria.

What types of projects may be funded?

Eligible projects include those by landowners and their partners who need technical and financial assistance to improve habitat or implement other activities on private lands for the benefit of endangered, threatened, proposed, candidate, or other at-risk species (plants and animals). Under the PSGP, privately owned means land that is not owned by a governmental entity.

For information on which species are endangered, threatened, proposed, or candidates, please visit the Service's Internet site at <http://endangered.fws.gov/wildlife.html>. For the purposes of the PSGP, an "at-risk species" is any species formally recognized as a species of conservation concern, such as species listed by a State or Territory. We recommend that you contact your State natural resources agency to determine which species are recognized as species of conservation concern (e.g., State listed as endangered, threatened, special concern, or other similar designations). If your State does not identify species of conservation concern or in addition to those species identified by the State, we will also consider any species or subspecies listed by NatureServe as "critically imperiled" (designated by rank "G1" or "T1"), "imperiled" (designated by rank "G2" or "T2"), or "vulnerable" (designated by rank "G3" or "T3") to be an at-risk species for the purposes of the PSGP. For information on NatureServe rankings, please visit their Internet site at <http://www.natureserve.org/explorer/>.

The PSGP supports on-the-ground conservation actions as opposed to planning or research activities. Examples of the types of projects that may be funded include managing nonnative competitors, reintroducing imperiled species, implementing measures to minimize risk from disease, restoring streams that support imperiled species, erecting fencing to exclude animals from sensitive habitats, or planting native vegetation to restore a rare plant community. This is not an exhaustive list of the various projects that may be funded under the PSGP. We recognize that there is a multitude of ways to benefit imperiled species conservation on private lands. While we will not fund the acquisition of real property either through fee title or easements, we are not excluding any other approach from consideration so long as it can demonstrate tangible on-the-ground benefits to the imperiled species in question and meets the other eligibility criteria established for the PSGP.

Who can apply for PSGP grants?

Private landowners, individually or as a group, are encouraged to submit project proposals for their properties. Additionally, individuals or groups (for example land conservancies, community organizations, or conservation organizations) working with private landowners on conservation efforts are also encouraged to submit project proposals provided they identify specific private landowners who have confirmed their intent to participate

on the project or provide other evidence in the project proposal to demonstrate landowner participation will occur. In order to receive funding, projects will need to ensure that landowners are willing to allow the Service access to the project area in order to check on its progress when necessary.

State government agencies are not eligible to receive PSGP funding (including as a subrecipient). The Service has established a separate program specifically designed to facilitate State government partnerships with private landowners, the Landowner Incentive Program. State agencies are encouraged to assist landowners in developing PSGP project proposals, to provide cost share when feasible, or to participate in other ways on project implementation. However, State agencies are not eligible to apply for PSGP funding directly.

Other non-Federal governmental entities or affiliates, including Counties or other local governments or State-supported universities, are eligible to apply for PSGP funding in order to assist private landowners in planning and implementing a project. As with other groups that apply on behalf of the private landowners, they must identify specific private landowners who have confirmed their intent to participate on the project or provide other evidence in the project proposal to demonstrate that landowner participation will occur.

Eligibility Criteria

The following criteria must be satisfied for a proposal to be considered for funding:

(1) The project must involve voluntary conservation efforts on behalf of private landowners within the United States (i.e., U.S. States and Territories). As a voluntary program, we will not grant funding for projects that serve to satisfy regulatory requirements of the Act, including complying with a biological opinion under section 7 of the Act or fulfilling commitments of a Habitat Conservation Plan under section 10 of the Act, or for projects that serve to satisfy other local, State, or Federal regulatory requirements (e.g., mitigation for local, State, or Federal permits).

(2) The project must benefit species listed as endangered or threatened under the Act by the Service,

species proposed or designated as candidates for listing by the Service, or other at-risk species that are native to the United States. We will not award grants to fund the acquisition of real property either through fee title or easements. However, habitat improvements over and above any existing requirements for lands covered under current easements or other such conservation tools would be considered eligible for funding.

(3) The proposal must include at least 10 percent cost sharing (i.e., at least 10 percent of total project cost) on the part of the landowner or other non-Federal partners involved in the project (the cost-share may be an in-kind contribution, including equipment, materials, operations, and maintenance costs). The cost share must come from sources other than the PSGP or other Federal funds.

(4) The proposal must either identify at least some of the specific landowners who have confirmed their intent to participate in the private conservation efforts (not all participating landowners need to be identified at the time of the proposal submission) or provide other information to demonstrate that the project, if funded, would have full landowner participation.

(5) The proposal must include a reasonably detailed budget indicating how the funding will be used and how each partner is contributing. A project begins on the effective date of an award agreement between you and an authorized representative of the U.S. Government and ends on the date specified in the award. Accordingly, we cannot reimburse you for time that you expend or costs that you incur in developing a project or preparing the application, or in any discussions or negotiations you may have with us prior to the award. We will not accept such expenditures as part of your cost share. We will also not consider fees or profits as allowable costs in your application. The total costs of a project consist of all allowable costs you incur, including the value of in-kind contributions, in accomplishing project objectives during the life of the project. The costs proposed to be funded through the PSGP may not exceed 90 percent of the total costs.

(6) The proposal must include quantifiable measures that can be used to evaluate the project's success. These quantifiable measures must be specific, clear, and provide demonstrable benefits to the target species such as

increased habitat quantity or quality. The project proposal should specify in detail how the habitat quantity or quality will be improved (e.g., acres, species, etc.) and the anticipated use of that habitat by the target species (e.g., numbers, duration, etc.). For example, a proposal might specify the number of acres restored by planting specific native plants and the number of breeding pairs of the target species that are anticipated to use the restored habitat. Proposed methods of monitoring, evaluating, and reporting these measures in comparison to an initial baseline should also be included in the proposal.

How does the PSGP work?

Interested individuals and groups prepare proposals that describe their project and its benefits for the target species. See “Project Proposals” below for additional information. Proposals will compete at a Regional level for funding. We have established targets for the amount of funding that will be available for grants within each of the Service’s Regions. These targets are based 50 percent on the number of acres of non-Federal land, as a representation of the amount of private land within each Region, and 50 percent on the number of listed, proposed, candidate, and a sample of the other at-risk species in each Region (see Table 1 for regional funding targets).

Table 1. Service Regions and Funding Target for Grants in each Region		
Region	States and Territories	Total Funding Target for Grants within Region
Region 1 (Pacific)	California, Hawaii, Idaho, Oregon, Washington, Nevada, American Samoa, Guam, and Commonwealth of the Northern Mariana Islands	\$2,821,859
Region 2 (Southwest)	Arizona, New Mexico, Oklahoma, and Texas	\$1,490,457
Region 3 (Great Lakes-Big Rivers)	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin	\$942,981
Region 4 (Southeast)	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the U.S. Virgin Islands	\$1,723,690
Region 5 (Northeast)	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia	\$634,151
Region 6 (Mountain-Prairie)	Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming	\$1,413,886
Region 7 (Alaska)	Alaska	\$472,976

The Service will award grants for actions and activities that protect and restore habitats that benefit federally listed, proposed, or candidate species, or other at-risk species on private lands. Additionally, the Service, in cooperation with the grantees, must address Federal compliance issues, such as the National Environmental Policy Act, the National Historic Preservation Act, and the Endangered Species Act. For the projects that are selected to receive funding, we will provide additional guidance on compliance with these requirements.

The final exact amount of funds, the scope of work, and terms and conditions of a successful award will be determined in pre-award negotiations between the prospective recipient and the Service's representatives. The prospective recipient will be asked to sign an agreement that specifies the project requirements, such as the cost share, the project design, the time commitment for maintaining the project's benefits, and the reporting requirements, and that provides for Service access to the project area in order to check on its progress. In order to receive funding, prospective recipient will also need to provide assurances and certifications of compliance with other Federal requirements (for example see Standard Form 424-B and Department of the Interior form DI-2010 available at <http://www.nctc.fws.gov/fedaid/toolkit/formsfil.pdf>). The recipient is reimbursed based on the cost-sharing formula in the Agreement. You should not initiate your project in expectation of PSGP funding until you receive the final grant award document signed by an authorized Service official. _____

How To Apply for a PSGP Grant

You must follow the instructions in this document in order to apply for financial assistance under the PSGP. For a description of the information that must be included in a project proposal, please see the "The PSGP Project Proposal" section below. Your project proposal should not be bound in any manner and must be printed on one side only. You must submit one signed original and two signed copies of your project proposal (including supporting information). Your unbound (a binder clip is allowed) project proposal must be received by the appropriate Regional Office listed in Table 2 by December 2, 2002. We encourage you to contact the Regional contact person listed in Table 2 prior to submitting a project proposal should you have questions regarding what

information must be submitted with the project proposal. An incomplete proposal will not be considered for funding.

Table 2. Where To Send Project Proposals and List of Regional Contacts			
Service Region	States or Territory where the project will occur	Where to send your PSGP project proposal	Regional PSGP Contact and Phone Number
Region 1	Hawaii, Idaho, Oregon, Washington, American Samoa, Guam, and Commonwealth of the Northern Mariana Islands	Regional Director U.S. Fish and Wildlife Service Eastside Federal Complex 911 N.E. 11th Avenue Portland, OR 97232-4181	Heather Hollis (503/231-6241)
Region 1	California and Nevada	Office Manager U.S. Fish and Wildlife Service Federal Building, 2800 Cottage Way, Room W-2606 Sacramento, CA 95825-1846	Miel Corbett (916/414-6464)
Region 2	Arizona, New Mexico, Oklahoma, and Texas	Regional Director U.S. Fish and Wildlife Service 500 Gold Avenue SW., Room 4012 Albuquerque, NM 87102	Susan MacMullin (505/248-6671)
Region 3	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin	Regional Director U.S. Fish and Wildlife Service Bishop Henry Whipple Federal Building One Federal Drive Fort Snelling, MN 55111-4056	Peter Fasbender (612/713-5343)
Region 4	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the U.S. Virgin Islands	Regional Director U.S. Fish and Wildlife Service 1875 Century Boulevard, Suite 200 Atlanta, GA 30345	Noreen Walsh (404/679-7085)
Region 5	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia	Regional Director U.S. Fish and Wildlife Service 300 Westgate Center Drive Hadley, MA 01035-9589	Diane Lynch (413/253-8628)
Region 6	Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming	Regional Director U.S. Fish and Wildlife Service P.O. Box 25486 Denver Federal Center Denver, CO 80225-0486	Patty Worthing (303/236-7400 ext. 251)
Region 7	Alaska	Regional Director U.S. Fish and Wildlife Service 1011 East Tudor Road, Anchorage, AK 99503-6199	Susan Detwiler (907/786-3868)

The PSGP Project Proposal

The project proposal is a narrative description of your project and one required Federal form. The ultimate size of the proposal will depend on its complexity, but we request that you attempt to minimize the size of the narrative description of the proposal. Each page should be no larger than 8.5 by 11 inches. You will need to submit an original proposal and two copies; neither the original nor the copies should be permanently bound. A complete application package with detailed instructions and supplementary information can be found at our Internet site: http://endangered.fws.gov/grants/private_stewardship.html.

The project proposal should also indicate whether partial funding of the project is practicable, and, if so, what specific portion(s) of the project could be implemented with what level of funding. A project proposal that is a part of a longer-term initiative will be considered; however, the proposed project's objectives, benefits, and tasks must stand on their own, as there are no assurances that additional funding would be awarded in subsequent years for associated or complementary projects.

The Service, the Department of the Interior, and the Office of Management and Budget have established requirements concerning Federal financial assistance. This includes established principles for determining which costs are allowable or eligible based on the type of applicant (see "Administrative Requirements" below). Your project proposal must comply with these requirements.

The narrative description of your project proposal should specifically address each of the eligibility criteria and each of the ranking factors. We recommend the following format for the project narrative—

_____ (1) Title Page. You should list on the Title Page a project title, objectives, duration, summary of costs (amounts of PSGP funding needed and cost sharing), and contact information (name, address and phone number).

_____ (2) Project Description. The project proposal must identify which species will benefit, how they will

benefit from the project, and describe the project's significance to each target species (goals and objectives for the project). We also encourage applicants to describe how the location of the project and its role in the landscape affect the conservation of the target species. The proposal must either identify at least some of the specific landowners who have confirmed their intent to participate in the private conservation efforts or provide other information to demonstrate that the project, if funded, would have full landowner participation. Explain why you need government financial assistance for the proposed work. List all other sources of funding you have or are seeking for the project. List any existing Federal, State, Tribal, or local government programs or activities that this project would affect.

(3) Project statement of work. The statement of work is an action plan of activities you will conduct during the period of the project. You must prepare a detailed narrative, fully describing the work you will perform to achieve the project goals and objectives. The narrative should respond to the following questions:

- (a) What is the project design? What specific work, activities, and procedures will you undertake?
- (b) Who will be responsible for carrying out the various activities? Describe how the project will be organized and managed. Identify the person(s) responsible for the project and other project participants.
- (c) What are the project milestones? Each project should first clearly describe the base-line conditions as they exist prior to project implementation. List milestones, describing the specific activities and associated time lines to conduct the scope of work. Describe the time lines in increments (e.g., month 1, month 2), rather than by specific dates.
- (d) Specify the criteria and procedures that you will use to evaluate the relative success or failure of a project in achieving its objectives.
- (e) For what amount of time will you commit to maintain the habitat improvements or other benefits from the project? Describe the steps you will take to ensure that the benefits of the project continue throughout this time period.

(4) Project Budget. You must submit a reasonably detailed budget for the project. The budget should indicate the breakdown of costs proposed to be funded through the PSGP and other costs, through both cash and in-kind contributions. To support your project's budget, also describe briefly the basis for estimating the value of the cost sharing derived from in-kind contributions.

_____ (5) Supporting Documentation. You should include any relevant documents and additional information (maps, background documents) that will help us to understand the project and the problem/opportunity you seek to address.

One Federal form, Standard Form-424 "Application for Federal Assistance," must also be completed and submitted with your project narrative description. Detailed instructions for filling out this form are included in the application package available on our Internet site at: http://endangered.fws.gov/grants/private_stewardship.html or see FOR FURTHER INFORMATION CONTACT above. This form is also available on the Internet at <http://www.gsa.gov/forms/>, at <http://www.nctc.fws.gov/fedaid/toolkit/toolkit.pdf>, or from the Regional PSGP Contact Person.

Administrative Requirements

Listed in the table below are the administrative requirements that will apply to your project if funded through the PSGP. The documents listed below establish principles for determining which costs are allowable or eligible ("cost principles") and describe other requirements that apply to receiving PSGP funding. These requirements apply to recipients and subrecipients of PSGP funding. In some cases, the requirements vary depending upon the type of organization receiving the funding or that is a subrecipient of the funding. Each of these documents can be found at our Internet site: http://endangered.fws.gov/grants/private_stewardship.html. For projects that are selected for funding, we will also offer additional technical assistance to facilitate the prospective recipients' understanding of the financial requirements.

Table 3. Administrative Requirements for PSGP Funding Awards	
Category:	Specific Requirements:

Individuals, private firms, and other non-profits excluded from coverage under OMB Circular No. A-122	<ul style="list-style-type: none"> * Federal Acquisition Regulation Subpart 31.2 * 43 CFR 18 (New Restrictions on Lobbying) * 48 CFR 31 (Contracts with Commercial Organizations)
Non-Profit Organizations covered under OMB Circular No. A-122	<ul style="list-style-type: none"> * 43 CFR 12 (Administrative and Audit Requirements and Cost Principles for Assistance Programs) * 43 CFR 18 (New Restrictions on Lobbying) * OMB Circular No. A-110 (Administrative Requirements for Grants) * OMB Circular No. A-122 (Cost Principles) * OMB Circular No. A-133 (Audits)
Educational Institutions (even if part of a State or local government)	<ul style="list-style-type: none"> * 43 CFR 12 (Administrative and Audit Requirements and Cost Principles for Assistance Programs) * 43 CFR 18 (New Restrictions on Lobbying) * OMB Circular No. A-21 (Cost Principles) * OMB Circular No. A-110 (Administrative Requirements for Grants) * OMB Circular No. A-133 (Audits)
States, local governments, and Indian Tribes	<ul style="list-style-type: none"> * 43 CFR 12 (Administrative and Audit Requirements and Cost Principles for Assistance Programs) * 43 CFR 18 (New Restrictions on Lobbying) * OMB Circular No. A-87 (Cost Principles) * OMB Circular No. A-102 (Grants and Cooperative Agreements) * OMB Circular No. A-133 (Audits)

Who can help plan and implement a project?

The Service may be able to assist landowners in planning or implementing projects. Through multiple programs, we offer a variety of expertise to assist landowners in planning and implementing projects on private lands. Among others, the Service's Endangered Species program and the Fish and Wildlife Management and Habitat Restoration program have worked hand-in-hand with a variety of partners on private lands. The Service's ability to assist landowners will depend upon the type of project proposed and an assessment of how the project fits into our existing workloads and priorities. Due to the limited time available for such assistance, it may be necessary to submit the project proposal for funding under a future PSGP Request for Proposals. For additional information on how the Service may be able to assist you, contact the Program Contact in the appropriate Regional Office identified in Table 2. Information is also available from the Service's Internet site at www.fws.gov.

In addition, many other Federal, State, Territory, or Tribal agencies, as well as conservation organizations, work closely with landowners and may be able to assist with planning and implementing a project. Local

governments, such as your county or city, may also have personnel that could assist you in developing a project proposal.

For general guidance on developing and writing grant proposals, see the Catalog of Federal Domestic Assistance's Internet site at <http://www.cfda.gov/public/cat-writing.htm>.

How will proposals be selected?

Proposals will compete at a Regional level for funding. Within each Region, a diverse panel of representatives from State and Federal government, conservation organizations, agriculture and development interests, and the science community will assess the applications and make funding recommendations to the Service. The Service's Regional Offices will invite and select the individuals to participate on the panels. The purpose of using the diverse panels is to obtain individual advice on project selection from an array of interests involved with conservation efforts on private lands. The Service will use the individual panel member recommendations in selecting projects, although geographic distribution of projects, the amount of funding requested for a project compared with the total amount of funding available, and other such factors may also be considered. Partial funding of one or more projects, when practicable, may be considered. After reviewing the individual panel member recommendations and the other factors, the Service's Director will make funding selections, subject only to the final approval of the Assistant Secretary for Fish and Wildlife and Parks.

Members of each diverse panel will individually score each proposal based on a set of ranking factors, which include (1) the number of endangered or threatened species, species proposed or candidates for such listing, and at-risk species that will benefit from the project; (2) the importance of the project to the conservation of those species, including the duration of the benefits, the magnitude of the benefits, and the urgency of the project; and (3) other proposal merits, such as whether the project complements other conservation projects in the area, the project's unique qualities, feasibility of the project, or any other appropriate justifications, including particular strengths in the above categories (e.g., extraordinary benefits).

Due to the wide variety of project proposals that will likely be submitted, the scoring system must provide a relatively high degree of flexibility. Therefore, a scoring system that is relatively simple, but allows project proposals to be evaluated qualitatively as well as quantitatively is desired. The three ranking factors will be scored as described in Table 4 below.

Table 4. Project Proposal Scoring Guidelines (10 points maximum):		
Ranking Factor:	Project Proposal Assessment:	Number of Points:
(1) The number of federally listed, proposed, candidate, or at-risk species that will directly benefit from the project.	5 or fewer species	1
	6 or more species	2
(2) The importance of the project to the conservation of the target species, including the duration of the benefits, the magnitude of the benefits, and the urgency of the project.	Qualitative	1 - 5
(3) Other Proposal Merits. Whether the project complements other projects in the area, the project's unique qualities, feasibility of the project, or any other appropriate justifications, including particular strengths in the above categories (e.g., extraordinary benefits).	Qualitative	0 - 3

How does the PSGP further the mission of the Service?

President Bush has launched a new strategy for improving the management and performance of the Federal Government. The PSGP will reflect the President's strategy and embody the Secretary's commitment to citizen-centered government around "four Cs": Conservation through Cooperation, Consultation, and Communication.

The quantifiable measures required of each proposal to be eligible under the PSGP will help achieve the overall goal of the program to conserve endangered, threatened, or other at risk species. Through this program, private, voluntary conservation efforts will help the Service meet its Long-Term and Annual Performance Goals as

expressed in the Service's Annual Performance Plan. In accordance with the Government Performance and Results Act of 1993 (31 U.S.C. 1115), the Service prepares a Strategic Plan. This plan describes the Service's performance goals and measures. The eligibility criteria, selection factors, and reporting requirements in the PSGP ensures that the projects funded maximize progress toward our goals and measures. Among others, the PSGP furthers the Service's goals for conserving imperiled species (Long-term Goal 1.2--Through 2005, 404 species listed under the Act as endangered or threatened a decade of more are either stable or improving, 15 species are delisted due to recovery, and listing of 12 species at risk is made unnecessary due to conservation agreements) and habitat conservation (Long-term Goal 2.3--By 2005, improve fish and wildlife populations focusing on trust resources, threatened and endangered species, and species of special concern by enhancing and/or restoring or creating 550,000 acres of wetlands habitat, restoring 1,000,000 acres of upland habitats, and enhancing and/or restoring 9,800 riparian or stream miles of habitat off-service lands through partnerships and other identified conservation strategies) as described in the Service's strategic plan. Information on the Service's strategic plans and performance reports are available on the Service's Internet site at <http://planning.fws.gov/>. These Service goals support the Department of the Interior's Long-term goals as identified in the Draft Strategic Plan. Specifically, Resource Protection Goals 1.1 (Improve health of watersheds and landscapes) and 1.2 (Sustain biological communities).

II. Summary of Comments and Recommendations

In response to our request for comments on the draft policy, we received letters from 26 entities. All comments received have been reviewed. Overall, almost all respondents expressed appreciation for the PSGP. Many offered valuable suggestions for improving or clarifying specific sections of the final implementation guidelines. Some minor editorial and other changes in the text were suggested; these comments are not included in the following analysis but all were considered, and many of the minor changes were included in the final guidelines. The comments and responses are presented below and are grouped topically.

Comments on General Program Implementation

Comment 1: Many commenters stated their support for the PSGP and the use of incentive-based approaches for conserving imperiled species.

Response 1: We appreciate these comments and look forward to working with interested parties in helping to notify landowners of the opportunities available through the PSGP.

Comment 2: Several commenters stated that the \$10 million for the PSGP was not sufficient to meet the demand for project funding.

Response 2: We believe that this level of funding is appropriate to initiate the PSGP, but agree that demand may exceed this funding level in the future. As the PSGP develops, we will reevaluate our funding level requests.

Comment 3: Several commenters recommended that we find ways to make the PSGP process simple in order to encourage the voluntary participation by landowners. Several commenters recommended that the Service keep the program flexible and not restrict landowners beyond that which is necessary to successfully implement the project.

Response 3: We have attempted to make the PSGP as simple and as flexible as possible, while meeting the established requirements for awarding Federal financial assistance. As we gain experience implementing the PSGP, we will continue to look for ways to make the program more user friendly.

Comment 4: Three commenters recommended that projects be based on the best available scientific and commercial information available.

Response 4: We agree that, to the extent practicable, projects should incorporate the best available scientific and commercial information. When assisting prospective applicants in developing project proposals, we will assist them in making use of the best information available. Additionally, the use of the best science will be

considered in the selection process. However, we do not believe it is necessary to stipulate this as an eligibility requirement for a proposal to be considered for funding. There may be project proposals submitted that would provide substantial benefits, but that could be improved with modifications to the project design or methods. Therefore, for projects that are selected for funding the Service will work with the prospective recipient to ensure the scope of work and the terms and conditions for the project incorporate the best available scientific information.

Comment 5: Several commenters suggested additions to the PSGP implementation plan, including issuing multiple Requests for Proposals, awarding grants quickly, developing application and reporting forms, setting aside funding to allow for monitoring and evaluation, establishing a tracking system for project implementation, and expanding State, Tribal, and stakeholder participation in the program development process.

Response 5: We appreciate these well-reasoned suggestions and have incorporated them to the extent feasible for this first year of implementing the program. As we gain additional experience, we will consider ways to further incorporate these suggestions.

Comment 6: One commenter stated that it is important to document success stories and report those successes to Congress and the media to promote the cooperative conservation ethic.

Response 6: We agree that it is critically important that we share the successes of the PSGP, and we will make every effort to do so.

Comment 7: One commenter stated that we should integrate PSGP into the Landowner Incentive Program (LIP) and have it administered by the Service's Federal Aid program. Another commenter recommended that the PSGP be implemented through the Service's Partners for Fish and Wildlife program in cooperation with the States. Conversely, another commenter stated support for private landowners being able to apply directly to the Federal Government for a grant.

Response 7: Conserving species on private lands requires a multi-faceted approach that is exemplified by

the PSGP and the LIP. These programs provide opportunities for landowners to work cooperatively with the Service, the States and Territories, and the Tribes. Some private landowners will want to work directly with the Service. For others, working with the State, Territory, or Tribe will best meet their needs. In all cases, these programs will enhance relationships with our partners and offer a diversity of approaches for addressing important habitat needs for imperiled species. The Service's Federal Aid program works primarily with State agencies, rather than directly with landowners. The Service's Partners for Fish and Wildlife program will be involved in implementing the PSGP. We will also continue to look for ways to improve the coordination of the PSGP with other Federal assistance programs.

Comment 8: One commenter stated that the Service should provide assurances that information provided to the agency will not be disseminated to others for use in ways unrelated to the project (by law enforcement personnel or to the public under the Freedom of Information Act). Other commenters stated that information generated by the PSGP should be readily available to the public.

Response 8: The commenter's concern with the confidentiality of information made available to the Service under the PSGP is understandable. Private landowners are often apprehensive that compliance with applicable Federal statutes may affect some land uses. In deciding whether to participate in the PSGP, prospective applicants should carefully consider the potential legal obligations that the landowner may face by attracting or increasing listed species or species that may become listed on their property. For those landowners where such concerns would preclude your participation in the PSGP, we encourage you to speak to the Service's PSGP contact person about the potential for the development of a Safe Harbor Agreement or a Candidate Conservation Agreement with Assurances for your project. Safe Harbor Agreements encourage voluntary management for listed species to promote recovery on non-Federal lands by giving assurances to the landowners that no additional future regulatory restrictions will be imposed under most circumstances. Candidate Conservation Agreements with Assurances provide incentives for non-Federal property owners to conserve candidate species, thus potentially making listing unnecessary and providing regulatory assurances in the event the species is listed. The feasibility of including these types of agreements will depend upon the proposed project and whether the landowner is willing to meet the

additional requirements for such agreements.

Project proposals under the PSGP are subject to Freedom of Information Act requirements and will be reviewed by non-Service staff. Applicants may request that we withhold specific information from release outside the agency, which we will honor to the extent allowable by law. If you wish us to withhold specific personal or proprietary information, you must identify which information is to be withheld and state this request prominently at the beginning of your proposal.

Comment 9: One commenter asked that we clarify how we determined the number of at-risk species used to establish the Regional funding targets.

Response 9: We used the number of species and subspecies within each Region that were not listed, proposed, or candidates, but that were ranked by NatureServe as “critically imperiled,” “imperiled,” or “vulnerable.” Additional discussion on “at-risk” species is included in the “What types of projects may be funded?” section above. The number of species or subspecies for each Region at the time we prepared the Fiscal Year 2002 allocation targets is included below in Table 5.

Table 5. Number of Species or Subspecies by Service Region with no Federal status and ranked by NatureServe as “critically imperiled, imperiled, or vulnerable” as of September 30, 2001.						
Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7
4,374	2,024	444	1,810	637	1,430	286

Comments Related to the Eligibility Criteria

Comment 10: Two commenters recommended that the program focus on ecosystems or communities that consider an array of species, or projects at the eco-regional scale as opposed to focusing on individual, targeted species.

Response 10: In evaluating the merits of a project, we will consider the larger conservation context in which the project would occur. Thus projects that have greater benefits in the sense that they address the needs of multiple species or that are part of a larger conservation planning effort will in general score higher than projects that do not provide such benefits. However, we do not believe it is necessary to revise the eligibility criteria to exclude species-specific projects or to make the required scale of a project beyond the ability of willing private landowners. Some of the most important and most cost-effective projects for conserving an imperiled species are those done by a single landowner or a few landowners located in key portions of a species' range. Additionally in some cases, efforts to conserve a single or a small number of species can have significant benefits for the entire natural community.

Comment 11: Many commenters recommended that we should better define which species are considered at-risk and one commenter stated that the State fish and wildlife agency should be consulted in determining which species are at-risk.

Response 11: We have provided additional clarification on how to determine which species are considered at-risk for the purposes of the PSGP (see also "What types of projects may be funded?" above). We encourage prospective applicants to contact their State fish and wildlife agency to ascertain whether their State designates species that are of conservation concern (e.g., State listed as endangered, threatened, special concern, or other similar designations). If your State does not identify species of conservation concern or in addition to those species identified by the State, we will also consider any species or subspecies listed by NatureServe as "critically imperiled" (designated by rank "G1" or "T1"), "imperiled" (designated by rank "G2" or "T2"), or "vulnerable" (designated by rank "G3" or "T3") to be an at-risk species. For information on NatureServe rankings, please visit their Internet site at <http://www.natureserve.org/explorer/>.

Comment 12: One commenter suggested that, given the limited funding available for projects, we not include at-risk species in the PSGP. Other commenters encouraged the consideration of "at-risk" species.

Response 12: We understand the commenter’s concern over the limited funding for the PSGP and acknowledge that there are many listed species for which projects on private lands are needed. However, we also recognize that projects for at-risk species have the potential to provide large benefits as well and not only for the at-risk species. Early conservation efforts preserve management options, minimize the cost of recovery, and reduce the potential for restrictive land use policies in the future. Addressing the needs of species before the regulatory restrictions associated with listed species come into play often allows greater management flexibility to stabilize or restore these species and their habitats. This cost-effective approach also benefits species already listed by freeing up additional resources for their recovery.

Comment 13: Three commenters recommended that we establish a cap on the amount that could be funded in any single grant.

Response 13: We will consider establishing a cap on the amount of the awards in future years. However, we would first like to see the range of projects that are submitted in order to establish a context for an appropriate cap size and to enable further consideration of how a cap would affect the quality of the projects that are ultimately funded.

Comment 14: One commenter stated that partial funding often creates more problems than it solves.

Response 14: We recognize that partial funding can complicate the awards process and that for some projects partial funding is not appropriate. However, when fully funding the project is not currently practicable, we will consider providing partial funding. For example, the scale of some projects may be reduced in order to allow the efficacy of the efforts to be more fully evaluated prior to fully funding the project. In other cases, project components may have discrete benefits that would warrant individual funding. As described above in “The PSGP Project Proposal,” we request that applicants indicate in the project proposal whether partial funding of the project is practicable, and, if so, what specific portion(s) of the project could be implemented with what level of funding. We will award partial funding only where we believe it is clearly beneficial to do so. We will work with the recipient of

the funding to clearly delineate what portion of the project is being funded and ensure the terms and conditions of the award are appropriate for the funding provided.

Comment 15: Two commenters indicated that a 10 percent cost share was reasonable. Two other commenters stated that the level of cost share should not be included in the project ranking system or should be deleted as an eligibility requirement. One commenter recommended that the State should provide the 10 percent match.

Response 15: We believe the 10 percent cost share is reasonable, and given that it may be met with an in-kind contribution to the project, is unlikely to inhibit the participation of interested landowners. While some States may choose to assist landowners with the cost share, we believe that the PSGP should be flexible and not specify only one source for the cost share. After additional consideration, we agree that cost share should not be included in the scoring system. We recognize that some of the most beneficial projects may involve a single landowner with limited cost share ability. Therefore, we have deleted the cost share from the project proposal scoring guidelines. However, to be considered for funding, a project proposal must demonstrate that at least 10 percent of the total costs will be provided from sources other than the PSGP or other Federal funds.

Comment 16: One commenter stated that accounting requirements for in-kind and matching contributions are too cumbersome and may cause some individuals to decline to participate.

Response 16: We do not want potential applicants to decline to participate because of the perceived burden of accounting requirements for Federal financial assistance. In these final implementation guidelines, we have provided prospective applicants with additional information resources to document these requirements. For projects that are selected for funding, we will also offer additional technical assistance to facilitate the prospective recipient's understanding of the financial requirements. However, we are not in a position to modify the requirements for Federal financial assistance in order to simplify the PSGP process. Therefore, it is important that recipients of PSGP funding clearly understand and comply with the Federal financial assistance requirements.

Comment 17: Several commenters stated their support for the exclusion of PSGP funding for compliance with a Habitat Conservation Plan under section 10 of the Act (HCP) or other regulatory requirements. One commenter stated that the language excluding HCPs was too limited in scope and that fulfilling the commitments of an HCP should be allowed under the PSGP.

Response 17: The PSGP was specifically designed to support voluntary efforts by private landowners. As a voluntary program, we will not grant funding for projects that serve to satisfy regulatory requirements of the Act, including complying with a biological opinion under section 7 of the Act or fulfilling commitments of an HCP under section 10 of the Act. The PSGP was designed to fill a different need than assisting with HCP or other compliance efforts.

Comment 18: Two commenters suggested that it was unreasonable to require applicants to identify the private landowners that would participate at the time of project submission.

Response 18: We have revised this requirement to allow a project proposal to either identify some of the specific landowners who have confirmed their intent to participate in the private conservation efforts (not all participating landowners need to be identified at the time of the proposal submission) or to provide other information to demonstrate that the project, if funded, would have full landowner participation. In the cases where the project proposal is not submitted directly by the landowner(s), we need to know that the proposed project is highly likely to result in on-the-ground conservation actions. For example, if the project proposal does not identify which landowners will participate, then it must explain how the project will obtain landowner participation and ensure the landowner's commitment to carry-through on the conservation actions proposed.

Comment 19: One commenter requested that we require the projects to be community-based and supported by multiple entities.

Response 19: We encourage community-based projects and those that are supported by multiple partners.

We believe that such projects are likely to provide the greatest benefits. However, we do not want to revise the eligibility criteria to exclude individual landowner projects. As noted above, some of the most important and most cost-effective projects for conserving an imperiled species are those done by a single or a few landowners located in key portions of a species' range.

Comment 20: Several commenters requested that we clarify who is eligible to apply for PSGP grants, specifically addressing States and Counties. In addition, others recommended we further limit eligibility, such as only funding projects that are in States not participating in the Service's Landowner Incentive Program.

Response 20: We have revised the eligibility criteria to clarify this issue. The focus of the PSGP is to provide assistance to private landowners; however, we recognize that many projects benefit from partnerships between landowners and other interested participants. Thus the PSGP allows "groups" to submit project proposals. As the Service has another program specifically designed to facilitate State partnerships with private landowners, the Landowner Incentive Program, we believe it is appropriate to exclude State government agencies from the eligible "groups" under the PSGP. State agencies are encouraged to assist landowners in developing PSGP project proposals, to provide cost share when feasible, or to participate in other ways on project implementation. However, State agencies are not eligible to submit PSGP project proposals directly. We will consider other entities, such as Counties, other local governments, or State-funded universities, to be eligible groups that may apply directly for a PSGP funding to assist private landowners. Such proposals must identify at least some of the specific private landowners who have confirmed their intent to participate with them in the conservation efforts or other evidence in the project proposal to demonstrate full participation will occur.

Comment 21: Two commenters recommended that we not fund projects intended to restore or offset habitat lost as result of incidental take permit (or other similar permit), unless it is to restore habitat above and beyond what is pre-permit (above baseline).

Response 21: We do not see a conservation benefit in categorically excluding or further defining the

eligibility of lands that may have at one time been covered under an incidental take permit. As discussed above, we will not award funds for projects that serve to satisfy regulatory requirements.

Comment 22: Two commenters recommended that projects should have high probability of providing specific, demonstrable benefits to the target species, habitats, and ecosystem.

Response 22: Proposals that articulate clearly and specifically the project benefits for the species, natural communities, and ecosystems and that explain why those benefits are likely to result from the project will be more competitive and more likely to receive PSGP funding. We will fund those projects that we believe provide the greatest benefits to the target species, habitats, and ecosystems.

Comment 23: One commenter recommended that conservation easements be eligible for funding; another commenter recommended that land acquisitions or easements not be eligible.

Response 23: We recognize that easements are very important tools for conservation. However, we also know there is an equally important need to fund on-the-ground management efforts. For the PSGP, we have chosen to focus on assisting with management rather than funding land acquisition through fee-title or easements. Although, we will not fund the purchase of easements under the PSGP, habitat improvements over and above any existing requirements for lands covered under current easements or other such conservation tools would be considered eligible for funding. The Service has other programs that specifically fund the acquisition of property.

Comment 24: Many commenters made recommendations for the types of projects that should be funded through the PSGP, such as allowing flexibility in project type, suggesting specific types of projects, providing economic incentives for landowners to conserve species, including projects other than habitat management (reintroductions), or emphasizing habitat-focused projects.

Response 24: We did not intend to provide an exhaustive description of the various projects that may be funded under the PSGP. We have expanded the list of examples. However, we recognize that there is a multitude

of ways to benefit imperiled species conservation on private lands. Therefore, while we will not fund the acquisition of real property either through fee title or easements, we are not excluding any other approach from consideration so long as it can demonstrate meaningful benefits to the imperiled species in question and meets the other eligibility criteria established for the PSGP.

Comments on Program Management

Comment 25: Several commenters stated their support for the use of the diverse panels to assist with project selection. One commenter expressed concern that a diverse panel would lack focus and questioned the ability of panel members to be impartial and knowledgeable of local projects. The commenter suggested that local Service offices should decide on the prioritization of projects.

Response 25: We believe that the diverse panels will aid in the selection of projects and also help build and maintain relationships between the Service and the diverse interest groups. We believe that the diverse panel members will offer perspective on project selection from an array of interests involved with conservation efforts on private lands. We will select panel members that are willing to fairly evaluate project proposals. As our experience in implementing the PSGP increases, we will consider how the diverse panels may be better used to improve the project selection process.

Comment 26: Several commenters made specific recommendations for managing the diverse panels, including that the scientific community, agricultural interests, private landowners, and individuals with local knowledge should each play important roles on the panel. It was further recommended that the process used by panels should be systematic and objective, follow Federal requirements for public participation, ensure confidentiality and fairness, include a diversity of stakeholders on the panel, and be balanced with respect to the number of participants from various groups.

Response 26: We will seek to implement the program using the concepts described in the President's

Budget request and to ensure compliance with applicable Federal requirements. The size of each diverse panel will be largely at the discretion of the individual Service Regions. If more than one representative from each group is invited to participate on a panel, the Service will also seek a balance among the various interest groups on the panel. In order to minimize administrative costs associated with the panel and to keep the panel to a manageable size, the number of participants may need to be limited. For additional information on the use of the diverse panels, see the “How will proposals be selected?” section above.

Comments on the Eligibility Criteria

Comment 27: Several commenters made recommendations concerning the performance measures used to evaluate the success of the projects and requested that we provide greater specificity as to what should be included in a project proposal and what is required to obtain funding. One commenter recommended that we fully articulate all of the program requirements for prospective applicants.

Response 27: We have revised and significantly expanded upon the project performance measures that must be included with each project proposal (see “Project Proposals” above). We have provided examples of measures as well as identified the specific Long-term and Annual Service goals that these measures will help the Service achieve. We have also provided expanded information on the requirements for obtaining Federal financial assistance (see “Administrative Requirements” above).

Comment 28: Several commenters recommended that projects be required to include habitat baseline information, as well as monitoring and adaptive management protocols.

Response 28: We agree with the commenters that this information would facilitate an evaluation of the project. However, this information is not always readily available to landowners. We encourage incorporation of this information when feasible. We have revised the proposal requirements (see “Project Proposal” above) to reflect this suggestion. Performance measures should be related to baselines when possible.

Comment 29: One commenter stated that collecting information on effectiveness would have limited value since individuals collecting the data would not have necessary expertise, ability, and time, and the wide variety of projects would make comparisons of the project data impracticable. In addition, the commenter recommended that activity reporting should be limited to progress on time-lines or specific goals reached.

Response 29: We agree that there are practicable limits to what information landowners may be able to collect. However, we also recognize that landowners often have an excellent understanding of the natural systems on their property and can provide significant information that will assist the Service in evaluating the effectiveness of the projects that are funded. We will work with funding recipients in the pre-award negotiations to identify what information is practicable and useful to collect to enable meaningful project evaluation. We agree that activity reporting should include progress on meeting time-lines or specific goals reached.

Comment 30: One commenter recommended that performance measures should be based on objectives that will promote recovery and delisting of the target species.

Response 30: We encourage project proposals to identify how the project will further the recovery goals for listed species or further the goals of other applicable conservation strategies. We believe that describing the performance measures in terms of the recovery needs of the species will strengthen the project proposal. The context for evaluating how the PSGP functions will be based on how the projects funded have contributed to the conservation of the target species.

Comment 31: One commenter stated that in cases where the PSGP funds habitat restoration or management on lands currently under an easement, easement compliance should be one of the measures used to evaluate the project.

Response 31: We agree with the commenter that a project proposal to enhance an existing easement should

identify how easement compliance will be incorporated into the project's performance measures. The terms and conditions of funding will incorporate this information.

Comment 32: One commenter stated that performance measures should be consistent with any applicable performance measures developed by the State, Federal, and Tribal managers. In addition, the Service should consult with Tribal, State, and Federal managers on the measures to ensure they do not conflict or undermine other programs.

Response 32: We encourage applicants to develop project proposals that are consistent with existing conservation programs. We will consult with others on project selection through the participation of the diverse panels. In addition, the Service will notify the States and Territories of project selections and share with the Tribes any information concerning projects that may affect Tribal trust resources.

Comments on the Selection Factors and Scoring System

Comment 33: One commenter stated that we should give priority to longer-term commitments, though exceptions may be warranted in some circumstances, and suggested that the relevant minimum timeframe might be the time required to recover the species. Another commenter stated that projects under a Safe Harbor Agreement should be given a lower priority, unless commitment to maintain improvement is for a substantial time period. One commenter stated that, in order to strengthen the duration of the benefits, the Service should establish a minimum time commitment.

Response 33: Each project proposal should indicate the amount of time the habitat improvements or other project benefits will be maintained. In evaluating project proposals, we will consider the duration of the benefits (commitment for maintaining the project). When the Service makes the funding award, we will specify the terms and conditions of the award, including the time commitment for maintaining the project. We may consider establishing a minimum time commitment in the future as we gain experience implementing this program.

Comment 34: Two commenters recommended that we consider the project’s landscape context. It was also recommended that we give priority to projects in locations that are most beneficial to the conservation and recovery of the target species and include mechanisms to avoid enhancing “habitat sinks.”

Response 34: We agree with the comments that the landscape context of the project is critically important. We encourage applicants to describe in the proposal how the location of the project and its role in the landscape contribute to conservation of the species. For example, where is the project located in relation to other existing habitat? Does it promote connectivity between habitats? What is the size of the project area in relation to the habitat needs of the target species? We believe that proposals that include this type of information will better describe the project’s benefits. “Sinks” are generally considered marginal habitat areas where the mortality in a population exceeds production. We disagree with the commenters that the PSGP should always avoid enhancing “habitat sinks.” Improving habitat conditions in “sinks” may provide substantial benefits to a population by reducing mortality rates. We agree project designers should carefully plan their projects to reduce the chances of unintended negative effects on local populations. As we consider projects for funding, we will be mindful of the important role landscape context plays in species conservation.

Comment 35: One commenter recommended that in order to demonstrate results quickly the program should be tiered to separately consider projects underway and new programs.

Response 35: We appreciate the commenter’s suggestion, as it is important to demonstrate the effectiveness of the program. However, given the diversity of projects that are likely to be funded through the PSGP, we do not believe it is necessary to tier the program. Some projects will build upon existing efforts and show results more quickly, while others may require additional time.

Comment 36: Several commenters recommended that we develop a selection factor that provides a higher priority to maintaining at-risk unique habitats or for projects that are part of large-scale planning efforts. Two

commenters recommended that projects at an eco-regional scale, or that have benefits for habitats/natural communities of high conservation concern, should receive a higher ranking than more localized projects.

Response 36: As previously discussed, the proposal evaluation will consider the benefits of the project. This will include a consideration of the larger conservation context in which the project would occur.

Comment 37: Several commenters recommended changes to the project ranking factors and scoring system. These recommendations included expanding the point range, dividing or combining the ranking factors, adding considerations to the project assessment for each scoring factor, decreasing the subjectivity, and increasing the flexibility of the scoring system.

Response 37: We do not believe simply expanding the point range would necessarily result in a better prioritization of projects. We believe it is important to maintain a simple scoring system in order to facilitate the review by the diverse panel members. Maintaining the 10-point scoring system and relatively broad ranking factors will allow the diverse panel to quickly assess all the project proposals. They will then be able to focus further consideration on the higher ranking projects, from which to make their individual recommendations. Furthermore, as a new program, we would like to see the range of proposals that are submitted before increasing the complexity of the ranking factors or scoring system. As we gain experience working with the diverse panels and evaluating project proposals, we will consider revising the scoring system. We believe that the scoring system is sufficiently flexible to allow proposals of a variety of merits to stand out.

Comment 38: Several commenters recommended that the number of species should not be used in the scoring system. Other commenters suggested it should be modified to include greater numbers of species, to weigh the benefits for each species, or to be combined with the importance of the project to better represent the overall contributions of the project.

Response 38: We agree with the commenters that simply counting the number of species is of limited value

when evaluating a project proposal. However, we believe it does serve an important function, which is to emphasize the requirement that projects must address the needs of listed, proposed, candidate, and other at-risk species.

Therefore, we have maintained the number of species as part of the scoring system with a slight modification to more realistically reflect the number of species that are likely to be included in project proposals. We encourage applicants to include in their project proposal a discussion of the benefits for each species. The better a proposal articulates the benefits of the project, the more likely it will be selected for funding.

Comments Related to Awarding Funding

Comment 39: Two commenters stated that “No Surprises” assurances should not be issued to landowners in association with PSGP funding. One recommended that if landowners desire regulatory assurances for their project they should seek Safe Harbor Agreements.

Response 39: No Surprises assurances are related to fulfilling commitments of a Habitat Conservation Plan under section 10 of the Act. We will not be using the PSGP to fund activities related to fulfilling commitments of a Habitat Conservation Plan under section 10 of the Act. We agree with the commenter that Safe Harbor Agreements and Candidate Conservation Agreements with Assurances may be appropriate for some landowners that are concerned about potential land-use restrictions and would like regulatory assurances in connection with their project.

Comment 40: One commenter stated a concern that large conservation groups will receive the bulk of the funding at the expense of local community groups; alternatively, another commenter stated that the Service should reach out to national conservation organizations that can leverage public funds before they are put into local projects.

Response 40: While we strongly encourage project proposals that are based on cooperative efforts, we will focus the PSGP on selecting projects that provide the greatest benefits. In our experience, some of the best conservation projects, both those by local groups and larger organizations, are those that effectively engage local communities. Therefore, we believe the PSGP will reach local community levels, whether through individuals, local

groups, or larger organizations. As we gain experience implementing the PSGP, we will continue to look for ways to encourage all types of project proposals.

Comment 41: One commenter recommended that the format for agreements with landowners be flexible or appropriate for specific circumstances for which the grant has been awarded.

Response 41: We will seek to have the terms and conditions of an award, and if appropriate for the project, any landowner agreements address the specific circumstances of the funded project.

Comment 42: Two commenters stated that all projects should comply with the requirements of the Act and the National Environmental Policy Act (NEPA). One commenter indicated that NEPA compliance would be beyond the ability of private landowners.

Response 42: The Service, in cooperation with the grantees, must address Federal compliance issues, such as the NEPA, the National Historic Preservation Act, and the Endangered Species Act. For the projects that are selected to receive funding, we will work with the recipient to ensure compliance with these requirements.

Comment 43: Several commenters expressed their support for time commitments, and one commenter recommended that recipients sign agreements that stipulate (1) activities to be carried out, (2) time commitment, and (3) return of pro-rated funding for default of commitment.

Response 43: The scope of work, as well as the terms and conditions for an award, will specify the activities to be carried out and time commitments for the project, and require compliance with applicable rules for receiving Federal financial assistance.

III. Required Determinations

Regulatory Planning and Review

This policy document identifies the eligibility criteria and selection factors that will be used to award grants under the PSGP. The Service developed this policy to ensure consistent and adequate evaluation of project proposals that are voluntarily submitted and to help perspective applicants understand how grants will be awarded. In accordance with Executive Order (E.O.) 12866, this policy document is significant and has been reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

(a) The PSGP will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local or tribal communities. A total of \$9,500,000 will be awarded in grants to private landowners or their partners to implement voluntary conservation actions. These funds will be used to pay for actions such as restoring natural hydrology to streams or wetlands that support imperiled species, fencing to exclude animals from sensitive habitats, or planting native vegetation to restore degraded habitat. In addition, the projects that are funded will generate other secondary benefits, including benefits to natural systems (e.g., air, water) and local economies. All of these benefits are distributed widely and are not likely to be significant in any one location. It is likely that local residents near projects where grants are awarded will experience some level of benefit, but it is not possible to quantify these effects at this time. However, the sum total of all the benefits from this program is not expected to have an annual effect on the economy of \$100 million or more.

(b) We do not believe the PSGP would create inconsistencies with other agencies' actions. Congress has given the Service responsibility to administer the program.

(c) As a new grant program, the PSGP would not materially not affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The submission of project proposals is completely voluntary. However, when an applicant decides to submit a project proposal, the proposed eligibility criteria and selection factors identified in this policy can be construed as requirements placed on the awarding of the grants.

Additionally, we will place further requirements on proponents of projects that are selected to receive funding under the PSGP. These requirements include specific Federal financial management requirements and time commitments for maintaining habitat improvements or other activities described in the applicant's project proposal in order to obtain and retain the benefit they are seeking.

(d) OMB has determined that this policy raises novel legal or policy issues and, as a result, this document has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In this notice, we are certifying that the PSGP will not have a significant economic impact on a substantial number of small entities for the reasons described below.

Small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant,

we consider the types of activities that might trigger impacts as a result of this program. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

The types of effects this program could have on small entities include economic benefits resulting from the purchasing of supplies or labor to implement the project proposals. However, since this program will be awarding a total of only \$9,500,000 for projects throughout the United States, a substantial number of small entities are unlikely to be affected. The benefits from this program will be spread over such a large area that it is unlikely that any significant benefits will accrue to a significant number of entities in any area. In total, the distribution of \$9,500,000 will not create a significant economic benefit for small entities, but clearly a number of entities will receive some benefit.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 August 25, 2000 et seq.):

(a) We believe this rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. This program provides benefits to private landowners.

(b) This rule will not produce a Federal mandate of \$100 million or greater in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The PSGP imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630 (“Government Actions and Interference with Constitutionally Protected Private Property Rights”), the PSGP does not have significant takings implications. While private landowners may choose to directly or indirectly implement actions that may have property implications, they would do so as a result of their own decisions, not as result of the PSGP. The PSGP has no provisions that would take private property rights.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. Congress has directed that we administer grants under the PSGP directly to private landowners.

Civil Justice Reform

In accordance with Executive Order 12988, the PSGP does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. With the guidance provided in this policy document, the requirements of the PSGP will be clarified to applicants that voluntarily submit project proposals.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501), the Office of Management and Budget has approved, and assigned clearance number 1018-0118, to this information collection authorized by the Department of the Interior and Related Agencies Appropriations Act, 2002, H.R. 2217/P.L.107-63 and subsequent Appropriations Acts. The reporting burden is estimated to average 8 hours per respondent for the project proposal

and 4 hours per respondent for reporting activities. The total annual burden is 4,000 hours for the project proposals and 200 hours for reporting activities; the number of respondents is estimated to average 500 respondents for submitting project proposals and 50 respondents for the reporting requirements. The information collected does not carry a premise of confidentiality. Your response is voluntary. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public is invited to submit comments on the accuracy of the estimated average burden hours for application preparation and to suggest ways in which the burden may be reduced. Comments may be submitted to: Information Collection Clearance Officer, Mail Stop 222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240 and/or Desk Officer for Interior Department (1018-0118), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act

We have analyzed this policy in accordance with the criteria of the National Environmental Policy Act (NEPA) and the Department of the Interior Manual (516 DM 2 and 6). This draft policy does not constitute a major Federal action significantly affecting the quality of the human environment. The Service has determined that the issuance of the policy is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1. The Service will ensure that projects that are funded through the PSGP are in compliance with NEPA.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. The effect of this policy document on Native American Tribes would be determined on a case-by-case basis with the individual evaluation of project proposals. Under

Secretarial Order 3206, the Service will, at a minimum, share with the tribes any information concerning project proposals that may affect Tribal trust resources. After consultation with the Tribes and the project proponent, and after careful consideration of the Tribe's concerns, the Service must clearly state the rationale for the recommended final decision and explain how the decision relates to the Service's trust responsibility. Accordingly:

- a. We have not yet consulted with the affected Tribe(s). This requirement will be addressed with individual evaluations of project proposals.
- b. We have not yet treated Tribes on a government-to-government basis. This requirement will be addressed with individual evaluations of project proposals.
- c. We will consider Tribal views in individual evaluations of project proposals.
- d. We have not yet consulted with the appropriate bureaus and offices of the Department about the identified effects of this draft policy on Tribes. This requirement will be addressed with individual evaluations of project proposals.

Authority

This notice is published under the authority of the Department of the Interior and Related Agencies Appropriations Act, 2002, H.R. 2217/P.L.107-63.

Dated: August 15, 2002

Signed: David P. Smith

Acting Assistant Secretary for Fish and Wildlife and Parks

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